

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Edward Garrett,)	
)	
Plaintiff,)	
)	Civil Action No. 1:18-cv-2295-BHH
v.)	
)	
Nancy A. Berryhill, Acting)	<u>ORDER</u>
Commissioner of Social Security,)	
)	
Respondent.)	
_____)	

This matter is before the Court on Plaintiff Edward Garrett's application to proceed without prepayment of fees in this action filed pursuant to 42 U.S.C. § 405(g), seeking judicial review of the Commissioner of Social Security's decision denying his application for disability benefits. In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), the matter was referred to a United States Magistrate Judge for initial review. On August 20, 2018, United States Magistrate Judge Shiva V. Hodges issued a Report and Recommendation ("Report") outlining the issues and recommending that the Court deny Plaintiff's motion. Attached to the Report was a notice advising Petitioner of his right to file written objections to the Report within fourteen days of being served with a copy. On September 17, 2018, Plaintiff filed a notice indicating that he does not object to the Magistrate Judge's Report and that the filing fee would be promptly paid. Indeed, it appears that Plaintiff paid the filing fee on September 21, 2018.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court

is charged with making a de novo determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because no objections were filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge that Plaintiff’s motion to proceed without prepayment of fees should be denied. Moreover, the Court notes that the issue is now moot as the filing fee has been paid.

Accordingly, the Court adopts and incorporates the Magistrate Judge’s Report (ECF No. 6) and denies Plaintiff’s motion to proceed without prepayment of fees (ECF No. 3).

IT IS SO ORDERED.

/s/Bruce H. Hendricks
Bruce Howe Hendricks
United States District Judge

October 15, 2018
Charleston, South Carolina